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APPENDIX A

SUPREME COURT OF VIRGINIA

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 8th day of October, 1982.

Record No. 820089
Circuit Court No. L-41668

Leonard P. Kline,
Appellant,

v.

City of Fairfax,
Appellee.

FROM THE CIRCUIT COURT OF FAIRFAX COUNTY

Finding no reversible error in the judgment complained of, the court refuses the petition for appeal filed in the above-styled case.

A Copy,

Teste:

Allen L. Lucy, Clerk

By:

/s/

Deputy Clerk

APPENDIX B

VIRGINIA
CIRCUIT COURT OF FAIRFAX COUNTY

At Law No. 41668

Leonard P. Kline,
Plaintiff,

v.

City of Fairfax,
Defendant.

FINAL JUDGMENT ORDER

THIS MATTER having been submitted to the Court for decision,

AND the Court having considered the evidence presented and the arguments of counsel,

AND the Court having set forth its findings and rulings in its letter opinion dated July 21, 1981, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, it is hereby

ORDERED that the Plaintiff's Motion for Judgment is hereby dismissed and final judgment is hereby entered in favor of the Defendant, City of Fairfax, and it is further directed and

ORDERED pursuant to Rule 5:9 of the Rules of the Supreme Court of Virginia that the following transcripts are part of the record; the transcript of the October 15, 1979 deposition of Leonard P. Kline, the transcript of

the December 17, 1979 deposition of George E. Hubler, Jr., the transcript of the July 7, 1980 deposition of Robert L. Fleck, the transcript of July 8, 1980 depositions of Jack H. Foster, Irving Galbert McNayr, and Augustus Howell Thomas, Jr., and the transcript of the January 14, 1980 hearing of this matter.

AND THIS ORDER IS FINAL.

ENTERED this 16th day of October, 1981.

/s/ Lewis Hall Griffith, Judge

Presented by:

Maloney & Chess

3900 University Drive
Fairfax, Virginia 22030

By /s/ Wyatt B. Durette, Jr.
Counsel for Defendant

Seen and Objected to:

Davis & Gillenwater

6801 Whittier Avenue
McLean, Virginia 22101

By /s/ Gilbert K. Davis, Esq.
Counsel for Plaintiff

APPENDIX C

NINETEENTH JUDICIAL CIRCUIT OF VIRGINIA

COUNTY OF FAIRFAX CITY OF FAIRFAX
CITY OF FALLS CHURCH

Fairfax County Courthouse
4000 Chain Bridge Road
Fairfax, Virginia 22030

July 21, 1981

Gilbert K. Davis, Esq.
Davis, Gillenwater,
Lynch & Doane
6801 Whittier Avenue
McLean, Virginia 22101

Wyatt B. Durrette, Esq.
Chess, Durrette & Roeder
3900 University Drive
Fairfax, Virginia 22030

Re: *Kline v. City of Fairfax*
Law No. 41668

Gentlemen:

This case was submitted for decision following oral argument and the submission of memoranda of counsel. I have reviewed the pleadings, stipulations, depositions and memoranda provided. Based upon the evidence presented and upon the law as I understand it the plaintiff's claim must be dismissed.

Two concepts control the decision in this case.

First, it is clear that the nature of the plaintiff's employment with the City is "inconsistent with either a property or contract right". *Johnson v. Black*, 103 Va. 477, 489 (1905); *Loving v. Auditor*, 76 Va. 942 (1882);

Holladay v. Auditor, 77 Va. 425 (1883); *Frazier v. Virginia Military Institute*, 81 Va. 59 (1885); *Sinclair v. Young*, 100 Va. 284 (1902); *Taylor v. Beckham*, 178 U.S. 548 (1900).

Second, "sick leave", by its very nature, is not an emolument of employment of the same type as salary or annual leave. "Sick leave" is more akin to a term life insurance policy. During the term of such a policy, if one dies, he, or more accurately his beneficiaries, are able to reap the benefits of the policy. Should the insured party survive beyond the term of the policy no benefit is obtained and the premiums paid during the term are lost. Likewise, in the instant case the plaintiff was "insured" against a loss of wages due to illness or injury throughout his term of employment. It having been the plaintiff's good fortune to have little or no incapacitating illness or injury during the course of his employment, he has, within the framework of the analogy, survived the term.

The fact that the City had, at one time, chosen to pay employees for unused sick leave and now chooses not to do so, is entirely the City's prerogative. It is quite clear that in a case such as this:

The term, the mode of appointment, and the compensation may be altered at pleasure, and the latter may even be taken away without abolishing the office. . . . there are no constitutional limitations upon that power, and the legislature may exercise it without hinderance. [citations omitted]

Sinclair v. Young, 100 Va. 284, 291 (1902).

Accordingly, I find specifically that the plaintiff obtained no vested right to compensation for unused "sick leave", that he was not denied equal protection of law when certain City employees, who retired prior

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to October 20, 1975, received large lump sum payments upon their retirement; and, that the City has not breached vested contractual rights of the plaintiff.

Mr. Durette should prepare an appropriate Order and submit the same to opposing counsel for endorsement and approval as to form.

Very truly yours,

/s/ Lewis Hall Griffith

APPENDIX D**CONSTITUTION OF THE UNITED STATES****Amendment V**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

APPENDIX E

ORDINANCE NO. 1974-4

AN ORDINANCE AMENDING THE CODE OF THE CITY OF FAIRFAX, VIRGINIA TO ADD TO CHAPTER TWO OF THE CODE OF THE CITY OF FAIRFAX, VIRGINIA, A NEW ARTICLE VIII, PROVIDING FOR A SYSTEM OF PERSONNEL ADMINISTRATION FOR EMPLOYEES IN THE CAREER SERVICE OF THE CITY OF FAIRFAX, VIRGINIA.

BE IT ORDAINED by the City Council of the City of Fairfax, Virginia, that the Code of the City of Fairfax, Virginia, be and it hereby is amended by adding to Chapter 2 of the Code of the City of Fairfax, Virginia, a new Article VIII to read in its entirety as follows:

**ARTICLE VIII. PERSONNEL ADMINISTRATION FOR
EMPLOYEES IN THE CAREER SERVICE.**

Sec. 2-38. Purpose.

The purpose of this ordinance is to provide for a system of personnel administration for the City of Fairfax, Virginia based on merit principles such as equitable compensation policies, open competition for appointment and advancement, and equal employment opportunities. Career Service employees shall be appointed, promoted, demoted, transferred, disciplined, rewarded and dismissed solely on the basis of merit and fitness, and without regard to age, race, color, sex, religion, national origin, or because of a physical handicap which will not interfere with the adequate performance of duties.

Sec. 2-39. Definitions.

Anniversary date. The date which is used in determining an employee's eligibility for periodic advances in pay and leave. The date of an employee's original appointment (or most recent appointment if there has been a break in service) shall be his anniversary date for determining leave. The anniversary date for in-grade advances shall be the date of an employee's most recent pay increase except when such increase was the result of an overall revision of the Pay Plan.

Compensatory leave. This is leave earned for necessary work beyond the regular work day or regular work week for which no other compensation is authorized.

Overtime. Time worked by an employee in excess of eight hours a day or forty hours a week; work done on a holiday or other normal day off.

Pay grade. A level in the pay schedule with a common pay range for all classes assigned thereto.

Probationary period. The working test or trial period of employment beginning with the date of appointment.

Promotion. A change in status of an employee to a new position which has a higher salary grade.

Temporary employee. A person employed by the City with the specific understanding that the duration of employment will not exceed one year.

Upgrading is the assignment of a higher pay grade to a position or class of positions.

Sec. 2-40. The City Service.

The City Service shall be divided into an Exempt Service and a Career Service.

(a) The Exempt Service shall consist of the following:

- (1) Members of the City Council and any staff assistants appointed directly by the Council.**
- (2) All other elected officials including Constitutional Officers and employees appointed by them.**
- (3) Members of boards and commissions.**
- (4) The City Manager, Superintendent of Schools, and City Clerk.**
- (5) The Registrar, Assistant Registrars and all election officials employed by the Electoral Board.**
- (6) All persons appointed on a contractual or fee basis.**
- (7) Temporary employees.**
- (8) All others that are exempted by Charter or ordinance.**

(b) Employees in the Exempt Service are not subject to the provisions of this ordinance except as otherwise provided by law and as mutually agreed to by the appropriate appointing authorities and the City Council.

(c) Career Service. All positions, other than temporary, under the administrative direction and control of the City Manager are in the Career Service and subject to all provisions of this ordinance and supplementary regulations.

Sec. 2-41. Responsibility and Authority of the City Manager.

The City Manager shall have the responsibility and authority for administering the personnel system established by this ordinance. In implementing the ordinance, the City Manager is authorized to prepare administrative

regulations on personnel management not inconsistent with the ordinance.

Sec. 2-42. Appointing Authority.

(a) Appointing authority is the officer, board, commission, person, or group of persons having the power by virtue of State law, City Charter or ordinance to make appointments. The appointing authorities for the City are indicated below.

(b) The City Council shall appoint the City Manager, the City Clerk, the City Attorney, boards and commissions.

(c) The City Manager shall appoint department heads with the concurrence of the Council.

(d) The Commissioner of the Revenue shall appoint the Deputy Commissioner of the Revenue and other employees of that department.

(e) The Treasurer shall appoint the Assistant Treasurer and other employees of that department.

(f) The School Board shall appoint its employees.

(g) The Electoral Board shall appoint its employees.

(h) The City Manager or his delegee shall be the appointing authority for all persons in the Career Service and supporting seasonal, temporary or part time employees.

(i) The City Attorney shall appoint the prosecutor.

Sec. 2-43. Personnel Advisory Board.

(a) There is hereby created a Personnel Advisory Board, hereinafter referred to as the Board.

(b) Designation; term. The Board shall be composed of three persons designated by the City Council for three

year terms. Of the original appointments, one term shall expire on June 30, 1975; one on June 30, 1976; and one June 30, 1977; however, members shall remain in office until their successors are chosen. At the beginning of each fiscal year, the City Council shall designate one member to serve as Chairman of the Board. Members shall serve without compensation.

(c) Qualifications. The Board shall be composed of qualified voters of the City of Fairfax who are in full agreement with the application of merit principles in public employment as enunciated in Section 2.38 of this ordinance. Members shall not, while serving, become candidates for elected office.

(d) Responsibilities and duties. The Board shall:

- (1) Represent the public interest in the improvement of personnel administration in the City service.
- (2) Advise the City Council and the City Manager in the formulation of policies concerning personnel administration in the Career Service of the City.
- (3) Hear employee appeals and grievances as provided in Section 2.48 of this ordinance.

(e) Executive Secretary. When the Board is serving in an advisory capacity, the City Manager or his designee shall serve as Executive Secretary to the Board and maintain minutes and other records of the Board. When hearing an employee appeal, the Board shall obtain a person to serve as secretary who is mutually agreeable to the appellant and the Board.

Sec. 2-44. Recruitment and Selection.

(a) Open competition. Positions in the Career Service shall be open to all persons who meet the minimum

requirements for the positions. The recruitment objective is to obtain well qualified candidates for City vacancies; however, in cases where residents and non-residents are equally qualified for particular positions, the residents shall receive priority consideration. Similarly, permanent employees shall be given preference over non-employees when equally qualified.

(b) Tests of fitness. Applicants may be required to take an examination to determine capacity or fitness for a position. Examinations may include written, oral, physical, or performance tests, or any combination thereof.

(c) Probationary period. All new Career Service employees are hired on a probationary basis for a period of one year. This is a working test period in which the new employee must show that he is capable and willing to perform his job satisfactorily. During this period the employee has no appeal rights as provided for in Section 2-48(e). After successful completion of the probationary period, the employee is entitled to the full benefits of a Career Service employee as provided by this ordinance.

Sec. 2-45. Position Classification Plan.

(a) All positions in the Career Service shall be grouped together into classes in accordance with the duties, responsibilities, and qualification requirements. At least once each fiscal year, the City Manager shall review the appropriateness of the classification plan after consultation with department heads and the Personnel Advisory Board.

(b) No person shall be employed in a position in the Career Service under any class title which has not been approved by the City Manager. No position shall be

filled other than on a temporary appointment of not more than six months by any person who does not meet the qualification requirements for that position as set forth in the class specifications which are a part of the position classification plan.

(c) All classes shall be assigned a numerical grade which shall be used to determine the pay level of the class in accordance with Section 2-46 of this ordinance. The actual duties performed and the level of education, skill, judgment, experience, knowledge and other qualifications required, are all considered in ranking and classifying Career Service positions.

Sec. 2-46. Employee Compensation.

(a) Pay plan. The City Manager shall make an annual review of the pay plan and the City Council shall adopt a pay plan simultaneous with the adoption of the annual Budget. The pay plan shall consist of two basic parts as follows:

- (1) A schedule of pay grades showing a minimum and a maximum rate for each grade and such intermediate steps as are deemed necessary.
- (2) A list of all class titles, showing the allocation of each class to an appropriate pay grade.

(b) Normal entrance salary. New appointments shall normally be made at the first step of the appropriate pay grade. However, appointments may be made above the minimum rate, subject to prior approval by the City Manager and the City Council.

(c) Within-grade advancement. Increases within each pay grade shall normally be made after one year in pay steps A through F; two years in Step G; and three years in Steps X and Y. These increases are not automatic or guaranteed; an employee's work must be satisfactory as

certified by his department head to be eligible for within-grade advancement.

(d) Effective date. Pay increases shall normally become effective at the beginning of the payroll period which includes the anniversary date of an employee's most recent pay increase, exclusive of general across-the-board adjustments.

(e) Promotions and Upgrading. A promotion shall be made in such a manner that the employee involved receives a salary increase equivalent to at least two steps in his prior salary range, provided, however, that the salary cannot go above the maximum or below the minimum for the specific grade. The City Manager may authorize an increase of more than two steps if necessary in order to attain internal pay equity. When a position is upgraded, the employee receives a pay increase of at least one step in his prior salary range. The new anniversary date for a promoted or upgraded employee is the date the action takes effect.

(f) Overtime. Employees in the Career Service who perform necessary overtime work shall be given compensatory leave (Section 2-47(d)) or overtime pay. Compensation for overtime work shall be at the rate of one and one-half times the regular rate for the position.

All overtime pay must be approved by the appropriate department head. It shall normally be limited to employees in pay grades 17 and below; exceptions to these categories must be approved in advance by the City Manager. Employees in pay grades above 17, except department heads, are entitled to compensatory leave for required overtime work as provided in Section 2-47(d).

When a holiday falls on the normal day off of an employee who works on a rotating shift, the employee shall be given an extra day's pay for that pay period.

(g) Premium pay. The normal pay for a position may be supplemented in certain cases because of unusual working conditions not common to all positions in the class or for educational attainment or special skills when determined by the City Manager to be in the best interest of the City with the approval of the City Council.

(h) Employee benefits. Other compensation may be provided to employees in the form of employee benefits as approved by the City Council. Such benefits shall include, but are not limited to, retirement, life insurance, and various forms of health insurance.

(i) Cash awards. Employee compensation may be supplemented by cash awards for outstanding performance. The basis for such awards may be any one or more of a variety of reasons, such as: continual work excellence above the call of duty; superior work in handling an event, incident, or special project; an act of heroism; the contribution of an idea that has resulted in savings to the City or improved operational efficiency. Nominations for awards may be submitted by any person, but they should be processed through department heads to the City Manager for recommended approval or disapproval of the nomination. The recommendations for awards shall become a permanent part of the employee's personnel file whether approved or disapproved. The awards shall become effective upon approval of the City Council.

Sec. 2-47. Holidays and Leave.

(a) Holidays. The following holidays shall be observed by the City and shall be granted to all employees without charge to leave:

New Year's Day
Lee-Jackson Day

January 1
3rd Monday in January

Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veteran's Day	4th Monday in October
Thanksgiving Day	4th Thursday in November
Christmas Eve	½ day on December 24
Christmas Day	December 25
Inauguration Day	January 20 (every 4th year)

The City Manager may substitute another day as a holiday in lieu of one of the days listed above.

Holidays falling on Saturdays or Sundays shall be taken on Fridays or Mondays respectively.

Compensatory leave or overtime pay shall be granted for work done on holidays as provided in Section 2-46(f) and 2-47(d).

(b) Leave with pay. The City grants leave with pay for vacations, illness, emergencies, or for any other purpose the employee desires at the following rates:

Employees with less than three years service, six hours leave per bi-weekly pay period.

Three to fifteen years service, eight hours per bi-weekly pay period.

Fifteen or more years service, ten hours per bi-weekly pay period.

Leave, except for illness or emergencies, must be approved in advance. The minimum leave increment is one hour. There is no limit on the amount of leave which may be accrued, except that each employee shall be required to use a minimum of 10 days (80 hours) each year.

Although leave is accumulated by this single category, an application for use of leave shall indicate whether the leave is for sickness, vacation or other purpose. Until a minimum reserve of 20 days (160 hours) has been accumulated, no more than 15 days a year may be used for a vacation.

Upon separation or retirement an employee shall be paid in full for all accrued leave up to a maximum of 30 work days (240 hours). Leave in excess of 30 days shall be paid on a ratio of one day for each two days accrued.

(c) Educational leave. An employee may be granted educational leave for the purpose of taking courses directly related to his work. Whether or not such leave will be granted, the duration of such leave, and whether such leave shall be with or without pay or with partial pay shall be at the discretion of the City Manager and shall involve considerations such as work load, availability of funds, appropriateness of courses, and other case-by-case considerations. In all cases where management directs employees to take education and training during regular working hours, the City will continue their salary, and assume all reasonable costs.

Normally, the granting of educational leave has the condition of return to work after a specified period of no more than a year and returning to the same position at the termination of leave; however, educational leave for a longer period may be granted with the condition that the City would not guarantee return to the same position but would offer the employee the first appropriate employment opportunity.

(d) Compensatory leave for necessary overtime work must be authorized in advance by the appropriate department head. It is granted on a basis of one and one-half

hours credit for each hour worked, calculated to the nearest one-half hour. Credit will not be given for less than a half hour.

Employees shall use compensatory leave as soon as possible after it is earned. No more than eighty hours may be carried over from one fiscal year to the next. When it is not convenient to use accumulated compensatory leave, as determined by the appropriate department head, that amount in excess of eighty hours at the end of the fiscal year may be converted to the employee's "leave with pay" account.

(e) Disability leave. A permanent or probationary employee who is disabled in line of duty shall receive full pay with no charge to his leave with pay account, but not exceeding ninety working days for any one injury. A temporary employee shall be paid in accordance with the provisions of the State Workmen's Compensation Act.

(f) Administrative emergency leave. The City Manager may excuse employees from duty for short periods of time without charge to leave. Examples would be extreme weather conditions, disaster, and days of national mourning or celebration.

(g) Military and civil leave:

- (1) An employee who is a member of a reserve force of the United States or of the Commonwealth of Virginia and who is ordered by the appropriate authorities to attend a training period or who is called to emergency active duty for the purpose of aiding civil authority under the supervision of the United States or the Commonwealth of Virginia shall be granted, upon request, a leave of absence with pay during the period of such activity, not to

exceed 15 consecutive calendar days for training duty and five working days for emergency active duty. Any Career Service employee with permanent status who leaves the City to enter the active service of the armed forces of the United States during time of war shall be placed on military leave without pay, such leave to extend through a date ninety days after the expiration of the period of service.

- (2) Employees desiring to vote in an election for national, state or local office shall be granted time off for a reasonable amount of time at the beginning or end of their regularly scheduled work day, not to exceed two hours.
- (3) Full pay is given to an employee while serving on a jury.

(h) Leave without pay. An employee may be granted leave without pay by the City Manager for a period not to exceed one year. An employee on leave without pay during a portion of a pay period shall earn leave with pay in proportion to the time worked during the pay period calculated to the nearest hour.

(i) Unauthorized leave. An employee who is absent from duty without approval shall receive no pay for the duration of the absence and be subject to disciplinary action. In the absence of disciplinary action, an employee who is on unauthorized leave for three consecutive days shall be separated from the payroll. However, the employee will be reinstated if there were extenuating circumstances which made it impossible for him to notify his supervisors in regard to his absence. An employee on unauthorized leave shall not earn leave for the pay period in which such leave occurs.

Sec. 2-48. Discipline and Grievances.

(a) Kinds of disciplinary actions. If an employee's work performance or behavior is unsatisfactory, the following kinds of disciplinary action may be taken, depending upon the circumstances: oral admonishment, official reprimand, withholding of anniversary pay increase, suspension, reduction in pay or dismissal.

(b) Authority to discipline. A supervisor has the responsibility for admonishment and reprimands and for recommending other action. A department head may withhold within-grade advancement and suspend an employee up to a maximum of twenty working days. Suspension for a longer period, reduction in pay, and dismissal can only be made by the City Manager.

(c) Notification. An employee shall be given written notice before any disciplinary action other than admonishment or oral reprimand is executed. Disciplinary action which is the result of unsatisfactory work performance will not be effected until a second written notice is given the employee. The official personnel file of each employee shall be available for his inspection during normal working hours.

(d) Grievances. A grievance is a complaint based upon an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. A grievance shall not be interpreted to mean negotiations of wages, salaries, or general employee benefits. Employee grievances, not involving disciplinary action, whether by an individual or group of employees shall be processed as follows:

- (1) Step 1. A grievance must be raised within ten work days after the event giving rise to the

grievance, or within ten work days following the time when the employee reasonably should have known of its occurrence. The grievant shall discuss the matter with his immediate supervisor who shall attempt to adjust the matter and must respond within three working days.

- (2) Step 2. If the grievance is not settled by the immediate supervisor to the satisfaction of the aggrieved employee, he may present it to the appropriate department head, who shall hear the appeal and respond in writing within five working days of receipt of the appeal. If the immediate supervisor is the department head, steps one and two are consolidated into a single step.
- (3) Step 3. If the grievant is not satisfied with the decision of the department head, he may file a written appeal to the City Manager, who shall hear his appeal within seven working days and render a decision within an additional seven working days.
- (4) Step 4. If the grievant is not satisfied with the decision of the City Manager, he may file a written appeal to the Personnel Advisory Board within ten days of notification by the City Manager. The decision of the Board shall be binding on both parties to the dispute unless either party within ten days after receipt of the decision indicates its intent to appeal to the City Council. The Council shall request both parties to submit their respective positions to the Council. After consideration of the positions of the parties, the Council may either

elect or decline to review the decision of the Board. In the event the Council elects to review the decision, it shall render a final and binding decision on the grievance as soon as possible thereafter. In the event the Council declines to review, the decision of the Board shall become final and binding.

- (5) Employee representation. At any or all steps the grievant shall be permitted to be accompanied or represented by an individual of his own choice.
- (6) No reprisal. It shall be unlawful for any supervisor or other management official to make a reprisal against an employee on account of a grievance.
- (7) Waiver of time limits. By mutual agreement, the parties to a grievance may extend any or all of the time periods established in this procedure. Failure by the employee to process a grievance within the time limits, or agreed upon extension, shall constitute termination of the grievance.

(e) Appeal of disciplinary action. An employee who has been suspended, reduced in pay, or dismissed may present an appeal to the Personnel Advisory Board within ten working days of the notification of the action. The Board shall hear the appeal within twenty days and submit its decision to the City Manager within ten days of the hearing. If the Board decides that the disciplinary action was unjust, the employee shall be reimbursed for lost pay to the extent determined by the Board. The decision of the Board shall be binding except as provided in this section in paragraph (d), subparagraph (4).

Sec. 2-49. Political Activities.

(a) All employees of the Career Service shall be protected against any unwarranted infringement on their rights as American citizens to vote as they choose, to express their opinions and to join any legitimate political organization whose purposes are not inconsistent with their loyalty to the United States.

(b) It shall be unlawful for any official in the service of the City of Fairfax to reward or to discriminate against any applicant for a position or any employee because of his political affiliations or political activities as permitted by this section.

(c) No special consideration shall be given to any endorsements or recommendations from any national, state, or local political party, or officer thereof, in making appointments, promotions, or dismissals in the Career Service.

(d) No employee in the Career Service shall take an active public role in any campaign on behalf of a candidate for a City of Fairfax office.

(e) No employee of Fairfax City shall take part in soliciting any assessment, subscription, or contribution for any political organization from any employee in the Career Service.

Sec. 2-50. Ethics.

(a) Conduct. City employees are expected to discharge their duties conscientiously and to conduct themselves in a manner, both on and off the job, which will reflect favorably upon the City government.

- (1) Each employee will refrain from any use of his official position which is motivated by the desire for private gain for himself or other

persons. He must conduct himself in such a manner that there is no suggestion of the extracting of private advantage from his City employment.

- (2) Each employee will exercise care in his personal financial activities to avoid any appearance of acting on the basis of information obtained in the course of performing his City duties.
- (3) An employee will not use his City position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or to other persons.
- (4) An employee will avoid any action which might result in giving preferential treatment to any organization or person; losing his independence or impartiality of action; or affecting adversely the confidence of the public in the integrity of the City government.

(b) Gifts and gratuities. An employee shall not accept gifts, gratuities or loans from organizations, business concerns, or individuals with whom he has official relationships on business of the City government. These limitations are not intended to prohibit the acceptance of articles of negligible value which are distributed generally, nor to prohibit employees from obtaining loans from regular lending institutions. It is particularly important that inspectors, contracting officers, and enforcement officers guard against any relationship which might be construed as evidence of favoritism, coercion, unfair advantage, or collusion.

(c) Conflict of interest. Employees in the Career Service shall not engage in any employment, activity or enterprise which has been or may be determined to be

inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of their City employment. An employee who desires to accept outside employment in addition to his regular City position must obtain the permission of his department head for such outside employment.

This ordinance shall become effective on July 1, 1974.

Introduced: March 19, 1974.

Adopted: May 21, 1974.

/s/ John W. Russell
Mayor

Attest:

/s/ Dorothy L. Winkinson
City Clerk

APPENDIX F

ORDINANCE NO. 1975-27

**AN ORDINANCE AMENDING ARTICLE VIII OF
CHAPTER TWO OF THE CODE OF THE CITY OF
FAIRFAX, VIRGINIA, ENTITLED, "PERSONNEL
ADMINISTRATION FOR EMPLOYEES IN THE
CAREER SERVICE."**

BE IT ORDAINED by the City Council of the City of Fairfax, Virginia, that Article VIII of Chapter 2 of the Code of the City of Fairfax, Virginia, entitled, "Personnel Administration for Employees in the Career Service", be and it hereby is amended as follows:

- (A) Delete the last portion of the last sentence of subsection (c) in Section 2-46 which reads, "satisfactory as certified by his department head to be eligible for within-grade advancement.", and insert the following in that place, "continually of a high quality and rated (certified) at least satisfactory or standard by his department head on the City's performance rating form in order for the employee to be eligible for within-grade advancement."
- (B) Substitute a comma for the period ending the last sentence of the last paragraph of subsection (b) in Section 2-47 and add the following as the ending for that sentence, "not to exceed payment for 15 additional days (120 hours)."; and then add the following new sentence as the ending for that paragraph, "This 45-day limit shall apply for leave accrued from the date of the adoption of this ordinance."
- (C) Add the following at the end of paragraph (4) of subsection (d) of Section 2-48, "The Personnel

Advisory Board shall act upon a written appeal within a reasonable period of time subsequent to its receipt. For this purpose, a reasonable period of time usually will not exceed 45 days. If due to extenuating circumstances this time limit cannot be met, the grievant will be informed in writing of the reason for the delay and when he can expect the Board to act."

This ordinance shall be effective immediately upon its adoption.

Introduced: June 3, 1975.

Adopted: June 17, 1975.

/s/ Nathaniel F. Young
Mayor

Attest:

/s/ Dorothy L. Wilkinson
City Clerk

APPENDIX G

ORDINANCE NO. 1975-52

AN ORDINANCE AMENDING ARTICLE VIII OF CHAPTER TWO OF THE CODE OF THE CITY OF FAIRFAX, VIRGINIA, ENTITLED, "PERSONNEL ADMINISTRATION FOR EMPLOYEES IN THE CAREER SERVICE.

BE IT ORDAINED by the City Council of the City of Fairfax, Virginia, that Article VIII of Chapter 2 of the Code of the City of Fairfax, Virginia, entitled, "Personnel Administration for Employees in the Career Service," be and it hereby is amended as follows:

Delete in its entirety subsection (b) of Section 2-47 and insert the following for that subsection:

"(b) The City grants annual and sick leave.

"(1) *Annual Leave.*

"Annual leave shall be granted full-time employees for vacations, emergencies and other personal uses and after a minimum of six months of continuous service with the City. During the first six months of employment, any time off from work under this category shall be charged to Leave Without Pay unless circumstances warrant an exception by the City Manager. At the completion of the first six months of employment, annual leave accrued during that period will be credited to the employee's account.

"Annual leave shall be accrued at the following rates:

- ... with less than three years service, employee earns four hours leave per pay period. . . .
- ... with less than fifteen years service, employee earns six hours leave per pay period. . . .

... with fifteen or more years service, employee earns eight hours leave per pay period. . . .

"Except in cases of illness or emergencies, leave must be approved in advance. The minimum leave increment is one hour. Each employee can accrue up to 30 days annual leave or up to the number of days of annual leave which that employee had accrued as of the date of the adoption of this ordinance, whichever is greater.

"Each full-time employee can carry over an accrued annual leave balance up to said maximum accrued annual leave from year to year during continuous service. Each employee shall be required to use a minimum of 10 days annual leave each year. If an employee fails to use this amount, it will be deducted from his leave balance on December 31 of each year.

"Leave accrued prior to July 1, 1974, shall be reconstituted into annual and sick leave as accrued by each employee as of that date. Leave accrued from July 1, 1974, up to the date of adoption of this ordinance shall be treated as annual leave.

"Payment for annual leave.

"Upon separation or retirement, full-time employee with over six months continuous service shall be paid for all accrued annual leave as defined hereinabove in the manner set forth hereinafter. Up to a maximum of 30 days accrued annual leave shall be paid on the basis of one day for each day of annual leave accrued. Accrued annual leave in excess of 30 days shall be paid on a ratio of one day for each two days accrued.

"(2) Sick Leave.

"Sick leave shall be accrued by full-time employees on a basis of four hours for each two week pay period.

"It is the policy of the City to grant sick leave to employees for illness or injury of sufficient seriousness to prevent the employee's attendance for duty. Sick leave is only to be used when actually warranted. When there is reason to believe sick leave is being abused, a licensed physician's certificate or written explanation may be required of the employee by his/her supervisor, his Department Head or the City Manager for the period of absence.

"In each case in which an employee is unable because of personal injury or illness to report to duty, it shall be his responsibility to inform, or have someone inform his responsible supervisor within four hours after the time he is due at work on the initial day of his incapacity. Failure to inform the responsible supervisor, without reasonable extenuating circumstances shall result in the absence being classified as Unauthorized Leave.

"No payment will be made for sick leave accrued upon separation or retirement from City service."

This ordinance shall become effective immediately upon its passage by the City Council of the City of Fairfax, Virginia.

Introduced: September 16, 1975.

Passed: October 20, 1975.

/s/ Nathaniel F. Young
Mayor

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Attest:

/s/ Dorothy L. Wilkinson
City Clerk
